IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 14467 of 2005

Between:

N. Goutham S/o N. Yellamaiah
R/o Gandhi Road, Karimnagar, Karimnagar

..... PETITIONER

AND

1 The Commissioner, Municipal Corportion of Karimnagar at karimnagar
2 Town Planning Inspector, Muncipal Corporation of Karimnagar
3 Kallepalli Saraswati D/o Late Venkanna
R/o 6-4-32 Karkhanagadda Locality Karimnagar

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue appropriate Writ, order or direction, particularly a Writ of mandamus declaring the action of the respondent No.1 issuing notice NO. 3485/G2/2005-06 dt 06-06-2005 and in not according sanction/Permission Pursuant to the application made by the petitioner on 17-5-2005 (13-05-2005) for grant of permission for construction in Plot NO 8/A at Gandhi Road, Karimnagar, as illegal, arbitrary and violative of the provisions of Karimngar Municipal Corporation Act and pass a consequential order directing the respondents to release the permit forthwith.

Counsel for the Petitioner: MR.J.PRABHAKAR

Counsel for the Respondents 1 and 2: MR.P.RADHAKRISHNA, Ms.V.PREETI REDDY.

The Court at the admission stage made the following :

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O R D E R:

This writ petition is filed seeking to declare the action of the first respondent in issuing notice, dated 06-06-2005, and not according sanction/permission pursuant to the application made by the petitioner on 17-05-2005 for grant of permission for construction in Plot No.8/A at Gandhi Road, Karimnagar, as illegal and arbitrary and consequently to direct the respondents to release the permit forthwith.

The petitioner claims to be the absolute owner, possessor and title-holder of the land-in-question. He submitted an application, dated 17-05-2005, for grant of permission for construction of a building in the land-in-question and subsequently paid the necessary fee. It is stated that the petitioner, alleging that the third respondent herein was interfering with his possession over the land-in-question, filed O.S.No.8 of 2005 along with I.A.No.42 of 2005 for temporary injunction before the Court of the Senior Civil Judge, Karimnagar. The learned Judge granted temporary injunction in his favour. Aggrieved by the same, the third respondent preferred C.M.A.NO.155 of 2005 along with C.M.A.M.P.No.316 of 2005 before this Court and obtained interim order in his favour. When the vacate petition filed by the petitioner came up before the Court, the C.M.A. itself was withdrawn. Thereafter, no proceedings have been taken up by the third respondent insofar as the temporary injunction obtained in I.A.No.42 of 2005 in O.S.No.8 of 2005 is concerned. It is further stated the third

respondent filed O.S.No.13 of 2005 before the Vacation Civil Judge, Karimnagar, and no interim order has been passed in the said suit. However, the first respondent returned the application dated 17-05-2005 submitted by the petitioner on the ground that C.M.A.M.P.No.316 of 2005 is pending. Hence, the writ petition.

The learned counsel for the petitioner submits that no interim orders of either the competent Civil Court or of this Court are operating as on today, and therefore, the action of the first respondent in returning the application, dated 17-05-2005, submitted by the petitioner on the ground that orders in C.M.A.M.P.No.316 of 2005 are pending is contrary to law.

Heard both the counsel and perused the material on record.

In view of the facts and circumstances of the case, especially in view of the fact that there are no interim orders of either the competent Civil Court or of this Court are pending, I deem it appropriate to direct the respondents to consider the application of the petitioner, afresh.

The writ petition is accordingly disposed of directing the respondents to consider the application dated 17-05-2005 submitted by the petitioner afresh and pass appropriate orders, in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No order as to costs.

(ELIPE DHARMA RAO, J)

Date:11-07-2005

Note:

Issue CC in three days.

B/o

ghn

To

1 The Commissioner, Municipal Corportion of Karimnagar at karimnagar
2 Town Planning Inspector, Muncipal Corporation of Karimnagar

3 2 CD copies